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09/851,858	05/09/2001	Sridhar Gollamudi	2	3687
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WILLIAMS, MORGAN & AMERSON 10333 RICHMOND, SUITE 1100 HOUSTON, TX 77042				
EXAMINER				
PERILLA, JASON M				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: SRIDHAR GOLLAMUDI

Application 09/851,858
Technology Center 2600

Mailed: May 15, 2009

Before ERIC W. HAWTHORNE *Supervisory Paralegal Specialist*
HAWTHORNE, *Supervisory Paralegal Specialist*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on April 8, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

PRIOR ORDER FOR RETURN

A prior “Order Returning Undocketed Appeal to Examiner” was mailed on September 22, 2008, wherein the Examiner was instructed that corrections were required. A review of the file finds that the required corrections have not been made or have not been made in entirety. The matters still requiring attention prior to docketing are identified below.

APPEAL BRIEF, SUMMARY OF CLAIMED SUBJECT MATTER

This application was returned to the Examiner from the Board of Patent Appeals and Interferences on September 22, 2008, by an Order to address deficiencies with the Appeal Brief. In response to this Order, the Examiner mailed a Notification of Non-Compliant Appeal Brief to Appellant on September 29, 2008. Specifically, the Appeal Brief was “deficient because it does not separately map each of the independent claims 1, 4, 8, 21-23, and 26-29 to the specification.”

Appellant filed a Second Appeal Brief on October 16, 2008. Upon review of the Claims Appendix, it is noted that there are 12 independent claims in the application as it stands for appeal. These are claims 1, 4, 8, 11, 16, 21-23, and 26-29. It is further noted that Appellant separately mapped all but one of these independent claims to the specification in the Second Appeal Brief.

However, the Appeal Brief is still not in compliance with 37 CFR § 41.37(c) effective September 13, 2004, because independent claim 23 is not separately mapped to the specification. Correction is required.

According to 37 CFR § 41.37(c) (v), an Appeal Brief must include the following:

(v) *Summary Of Claimed Subject Matter*. A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which must refer to the specification by page and line number, and to the drawing, if any, by reference characters. < While reference to page and line number of the specification **>requires< somewhat more detail than simply summarizing the invention, it is considered important to enable the Board to more quickly determine where the claimed subject matter is described in the application. >For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of 37 CFR 41.37(c)(1)(vii), every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

MPEP § 1205.03 states in part:

(B) When the Office holds the brief to be defective solely due to appellant's failure to provide a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v), an entire new brief need not, and should not, be filed. Rather, a paper providing a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v) will suffice. Failure to timely respond to the Office's requirement will result in dismissal of the appeal. See MPEP § 1215.04 and § 711.02(b).

CONCLUSION

Accordingly, it is ORDERED that the application is returned to the Examiner to:

- 1) hold the Appeal Brief filed October 16, 2008, defective, as required by 37 CFR § 41.37(d);
- 2) notify the Appellant to submit a "paper" which corrects the Appeal Brief's Summary of Claimed Subject Matter under 37 CFR §41.37(c)(1)(v);

3) acknowledge and consider any “paper” submitted by Appellant to correct the Appeal Brief; and

4) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

EWB/saw

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